

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHOHEI YAMAMOTO, OSAMU FUKUSHIMA, MASATAKA MURATA,
TOSHIAKI AONO and NOBUYUKI IWASAKI

Appeal No. 96-2497
Application No. 08/314,788¹

ON BRIEF

Before THOMAS, KRASS and JERRY SMITH, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed September 29, 1994. According to appellants, this application is a continuation of Application No. 08/111,515 filed August 24, 1993, now abandoned.

This is a decision on appeal from the final rejection of claims 1 through 7, 11-15, 17, 22 through 25, 34 and 35. Claims 36 and 39 through 51 have been allowed by the examiner. Claims 8 through 10, 16, 18 through 21 and 26 through 33 have been objected to but indicated by the examiner as being directed to allowable subject matter. Claims 37 and 38 have been canceled.

The invention pertains to a self-photography apparatus. More particularly, the disclosed device causes the size of the resulting facial image in an ID document to be consistent regardless of the actual size of the subject's head.

Representative independent claim 1 is reproduced as follows:

1. A self-photography apparatus for making a photograph having at least a facial image of a human object in response to a start signal inputted by said human subject, said self-photography apparatus comprising:

an imaging device for picking up an image signal representing said facial image of said human object;

a detection device connected to said imaging device for detecting the size of a face of said human object, said detection device comprising a first mark at a position

corresponding to the position of a chin of the facial image and a second mark at a position corresponding to the position of a crown of a head of the facial image;

an adjusting device for adjusting a magnification of an image in accordance with the face size detected by said detection device, so as to cause said facial image to have a predetermined size in said photograph;

a recording device for recording said facial image onto a recording medium at said magnification; and

a processing device for processing said recording medium having said facial image recorded thereon so as to produce said photograph.

The examiner relies on the following references:

Yamamoto et al. (Yamamoto)	4,903,057	Feb. 20,
1990		
Thayer, Jr.	4,959,670	Sep. 25,
1990		

Claims 1 through 7, 11-15, 17, 22 through 25, 34 and 35 stand rejected under 35 U.S.C. 103 as unpatentable over Yamamoto in view of Thayer.

Reference is made to the brief and answer for the respective positions of appellants and the examiner.

OPINION

At the outset, we note that, in accordance with appellants' grouping of the claims at page 5 of the brief, all the claims on appeal will stand or fall together. Accordingly, we will focus on independent claim 1.

After careful consideration of the record before us including, inter alia, the examiner's rationale for the rejection and appellants' arguments thereagainst, we will sustain the rejection of the claims under 35 U.S.C. 103.

Both the examiner and appellants agree that Yamamoto teaches a conventional self-photography system and appellants do not dispute the examiner's characterization of Yamamoto as teaching the recording device and processing device elements of instant claim 1. Appellants also do not dispute the combinability of the applied references.

The dispute centers around the claimed detection device and adjusting device elements. The examiner cites the grid lines in Thayer's Figures 11 and 12 as the claimed "detection device" having first and second marks at positions

corresponding, respectively, to a chin and a crown of a head of a facial image. The examiner cites the zoom feature of Thayer (buttons 134 and 136 of Figure 2) as corresponding to the claimed "adjusting device."

Appellants argue that the grids of Thayer do not in any way serve to detect the size of the subject's facial image or correspond to portions of the facial image but merely aid in positioning the image. We disagree. While we clearly understand the differences between the instant *disclosed* invention and that disclosed by Thayer, as broadly *claimed* in the language of claim 1, we agree with the examiner that Thayer teaches a "detection device" and an "adjusting device."

It is clear that in Thayer the subject has wide discretion as to how the image will be posed within each of the grids. Thus, a subject may very well choose to align his/her chin with the bottom line in, say, the bottom right grid of Figure 12 and the subject's face is within that grid. Thus, it can reasonably be said that the grid line is a "detection device"

for detecting the size of the face of the human subject. The chin of the facial image is at a "first mark" (the bottom line of the grid) at a position which corresponds to the chin position. The top of the bottom right grid of Figure 12 of Thayer would then constitute a "second mark at a position corresponding to the position of a crown of a head of the facial image," as broadly claimed. While it is true that the crown may not be right at the line at the top of the grid initially, the crown of the head of the facial image is in that general direction and, in our view, it can reasonably be said that this line of the grid is "corresponding to the position" of the crown.

With regard to the "adjusting means," the subject in Thayer's system may zoom in or out, employing the appropriate buttons, causing the crown of the head of the facial image to actually touch, or be aligned with, the top line of the grid while the chin of the facial image touches the bottom line of the grid. Thus, as broadly claimed, Thayer does disclose an "adjusting device" which adjusts the magnification of an image in accordance with a face size since different face sizes will

require more or less magnification with the zoom lens to fill the grid. Since the grids are of predetermined size, once the facial image is adjusted to fill the grid such that the chin is at the bottom line and the crown of the head is at the top line, it can be said that the facial image has been caused "to have a predetermined size in the photograph," as claimed.

The examiner's decision rejecting claims 1 through 7, 11 through 15, 17, 22 through 25, 34 and 35 under 35 U.S.C. 103 is affirmed.

No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED

JAMES D. THOMAS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
ERROL A. KRASS)	APPEALS
Administrative Patent Judge)	AND
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